IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 6TH JUNE 2007 / 16TH JYAISHTA 1929

MFA.No. 942 of 2001()

OA.3/2000 of FOREST TRIBUNAL, KOZHIKODE
.....

APPELLANTS:

1.CHANDRADAS,S/O.CHAMU,
RESIDING AT CHERUNKULAM,
THENKARA AMSOM, MANNARGHAT TALUK.

2.DILEEP KUMAR, S/O.CHAMU, DO. DO.

3.JAYARAJAN,S/O.CHAMU, DO. DO.

4.JAYAPRAKASH, S/O.CHAMU, DO. DO.

BY ADV. SRI.T.K.VENUGOPALAN
SRI.SHIBU JOSEPH

RESPONDENTS:

1.THE STATE OF KERALA, REP. BY THE CHIEF SECRETARY, GOVT.SECRETARIAT, THIRUVANANTHAPURAM.

2.CUSTODIAN OF VESTED FOREST, ARANYA BHAVAN, FOREST COMPLEX, OLAVAKKODE, PALAKKAD.

3.CHAMU,S/O.ANDI, CHELAPARA, CHERUNKULAM, THENKARA AMSOM, MANNARKKAD.

BY SPL.GOVERNMENT PLEADER SRI.RANJITH THAMPAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 06/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO.942 OF 2001 ()

Dated this the 6th day of June, 2007

J U D G M E N T

KOSHY,J.

Appellant petitioner challenges the order of the Forest Tribunal. It is the contention of the petitioner that adjacent properties are agricultural lands and not a private forest. Petitioner also produced six documents before this Court and contended that properties in question is not a private forest and even if it is considered as forest they are entitled to exemption under Sections 3(2) and 3(3) of the Kerala Forests (Vesting and Assignment) Act. We are of the opinion that whether the additional documents are admissible or not can be decided only after evidence and an opportunity should be given to both sides to adduce evidence regarding admissibility and effect of the documents. Considering the facts and circumstances of the case, we are of the view that the matter

should be remanded and a fresh opportunity can be granted for both sides to adduce further evidence leaving all the questions to be decided afresh. Appellant is free to produce these documents before the tribunal and respondent is also free to adduce counter evidence, if any. Both parties may appear before the tribunal on 6.8.2007. Appeal is allowed by way of remand. Registry is directed to forward documents produced before this Court along with I.A.No.1045/2007 and a copy of this judgment to the Forest Tribunal.

J.B.KOSHY, JUDGE

K.P.BALACHANDRAN, JUDGE

prp

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.NO.942 OF 2001 ()

J U D G M E N T

6th June, 2007